

Senate Study Bill 3015

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S OFFICE
OF DRUG CONTROL POLICY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the sale of a pseudoephedrine product by a
2 pharmacy or retailer, and providing penalties and contingent
3 applicability.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5464XD 82
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1 1 Section 1. Section 124.212, subsection 4, paragraph c,
1 2 Code Supplement 2007, is amended to read as follows:
1 3 c. Pseudoephedrine. A person shall present a
1 4 ~~government-issued driver's license or other state-issued photo~~
1 5 ~~identification card when purchasing a pseudoephedrine product~~
1 6 ~~from a pharmacy. A person shall not purchase more than seven~~
1 7 ~~thousand five hundred milligrams of pseudoephedrine, either~~
1 8 ~~separately or collectively, within a thirty-day period a~~
1 9 ~~quantity of pseudoephedrine in violation of section 124.213~~
1 10 ~~from a pharmacy, unless the person has a prescription for a~~
1 11 ~~pseudoephedrine product in excess of that quantity. A~~
1 12 ~~pseudoephedrine product not excepted from this schedule shall~~
1 13 ~~be sold by a pharmacy as provided in section 124.212A.~~
1 14 Sec. 2. NEW SECTION. 124.212A PHARMACY PSEUDOEPHEDRINE
1 15 SALE == RESTRICTIONS == RECORDS == CONTINGENT APPLICABILITY.
1 16 1. A pharmacy, an employee of a pharmacy, or a licensed
1 17 pharmacist shall do the following:
1 18 a. Provide for the sale of a pseudoephedrine product in a
1 19 locked cabinet or behind the sales counter where the public is
1 20 unable to reach the product and where the public is not
1 21 permitted.
1 22 b. Require the purchaser to present a driver's license or
1 23 other state-issued photo identification card identifying the
1 24 purchaser prior to purchasing a pseudoephedrine product.
1 25 c. Provide an electronic logbook for purchasers of
1 26 pseudoephedrine products to sign.
1 27 d. Require the purchaser to sign the electronic logbook.
1 28 If the electronic logbook is not available, require a
1 29 signature that is associated with a transaction number.
1 30 e. Enter the purchaser's name, address, date of purchase,
1 31 time of purchase, name of the pseudoephedrine product
1 32 purchased, and the quantity sold in the electronic logbook.
1 33 If the electronic logbook is unavailable, an alternative
1 34 record shall be kept that complies with rules adopted by the
1 35 board.
2 1 f. Determine that the signature in the electronic logbook
2 2 corresponds with the name on the driver's license or other
2 3 state-issued photo identification card.
2 4 g. Provide notice that a purchaser entering a false
2 5 statement or misrepresentation in the electronic logbook may
2 6 subject the purchaser to criminal penalties under 18 U.S.C. }
2 7 1001.
2 8 h. Keep electronic logbook records and any other records
2 9 obtained if the electronic logbook is unavailable for
2 10 twenty-four months from the date of the last entry.
2 11 i. Disclose electronic logbook information and any other
2 12 associated records as provided by state and federal law.
2 13 j. Comply with training requirements pursuant to federal
2 14 law.
2 15 2. This section is not applicable unless sufficient
2 16 funding is received to implement the statewide real-time
2 17 central repository and the board establishes the statewide
2 18 real-time central repository. However, subsection 1,

2 19 paragraph "h", is applicable upon the effective date of this
2 20 Act.

2 21 Sec. 3. NEW SECTION. 124.212B PSEUDOEPHEDRINE SALES ==
2 22 CENTRAL REPOSITORY == PENALTY == CONTINGENT APPLICABILITY.

2 23 1. The board shall establish a real-time electronic
2 24 central repository to monitor and control the sale of schedule
2 25 V products containing any detectable amount of
2 26 pseudoephedrine, its salts, or optical isomers, or salts of
2 27 optical isomers; ephedrine; or phenylpropanolamine. A
2 28 pharmacy dispensing such products shall report all such sales
2 29 electronically to the central repository under the control of
2 30 the board.

2 31 2. The information collected in the central repository is
2 32 confidential unless otherwise ordered by a court, or released
2 33 by the lawful custodian of the records pursuant to this
2 34 section.

2 35 3. A pharmacy, an employee of a pharmacy, or a licensed
3 1 pharmacist shall not be provided access to the stored
3 2 information in the electronic central repository, except for
3 3 the purpose of obtaining sufficient information for the
3 4 pharmacist to determine whether to complete the sale of the
3 5 product. A pharmacy, an employee of a pharmacy, or a licensed
3 6 pharmacist shall not be given the obligation or duty to view
3 7 the stored information.

3 8 4. A pharmacy, or an employee of a pharmacy, or a licensed
3 9 pharmacist shall not be given the obligation or duty to seek
3 10 information from the central repository if the real-time
3 11 electronic logbook becomes unavailable for use.

3 12 5. If the electronic logbook is unavailable for use, a
3 13 paper record for each sale shall be maintained including the
3 14 purchaser's signature. Any paper record maintained by the
3 15 pharmacy shall be provided to the board for inclusion in the
3 16 electronic real-time central repository as soon as
3 17 practicable.

3 18 6. A pharmacy, or an employee of a pharmacy, or a licensed
3 19 pharmacist shall not be liable to any person for any claim
3 20 which may arise when reporting sales of products enumerated in
3 21 subsection 1 to the central repository.

3 22 7. A person who discloses information stored in the
3 23 central repository in violation of this section commits a
3 24 simple misdemeanor.

3 25 8. The board shall adopt rules to administer this section.

3 26 9. This section is not applicable unless sufficient
3 27 funding is received to implement this section and the board
3 28 establishes the statewide real-time central repository.

3 29 Sec. 4. NEW SECTION. 124.212C PSEUDOEPHEDRINE ADVISORY
3 30 COUNCIL == ELECTRONIC MONITORING.

3 31 1. The board shall establish a pseudoephedrine advisory
3 32 council to provide input and advise the board regarding the
3 33 implementation of the statewide real-time central repository
3 34 established under section 124.212B to monitor sales of
3 35 pseudoephedrine. The board shall specify the duties,
4 1 responsibilities, and other related matters of the advisory
4 2 council.

4 3 2. The council shall consist of four licensed pharmacists.
4 4 The board shall solicit recommendations for membership on the
4 5 council from the Iowa pharmacy association and shall appoint
4 6 members from the recommendations. The council shall include a
4 7 member from an independent pharmacy, a member from a regional
4 8 chain pharmacy, and a member from a national chain pharmacy.
4 9 The license of any member must be current and not subject to
4 10 disciplinary sanctions.

4 11 3. The council may make recommendations regarding the
4 12 implementation of the statewide real-time central repository
4 13 monitoring system under section 124.212B.

4 14 4. The council shall do the following:

4 15 a. Assist the board in implementing the statewide
4 16 real-time central repository monitoring system.

4 17 b. Assist the board in developing utilization guidance
4 18 related to the statewide real-time central repository
4 19 monitoring system and disseminating such guidance.

4 20 c. Assist the board in developing guidelines to ensure
4 21 patient confidentiality and the integrity of the relationship
4 22 established by the patient and the patient's health care
4 23 provider.

4 24 5. Each member of the council shall receive per diem
4 25 compensation at the rate specified in section 7E.6 for each
4 26 day spent in the performance of the member's duties. All
4 27 members of the council shall receive actual and necessary
4 28 expenses incurred in the performance of their duties.

4 29 6. This section is repealed when the establishment of the

4 30 statewide real-time central repository is complete.
 4 31 Sec. 5. Section 124.213, Code 2007, is amended by striking
 4 32 the section and inserting in lieu thereof the following:
 4 33 124.213 PSEUDOEPHEDRINE PURCHASE RESTRICTIONS FROM
 4 34 PHARMACY OR RETAILER == PENALTY.
 4 35 1. A person shall not purchase more than three thousand
 5 1 six hundred milligrams of pseudoephedrine, either separately
 5 2 or collectively, within a twenty-four-hour period from a
 5 3 pharmacy, or more than one package of a product containing
 5 4 pseudoephedrine within a twenty-four-hour period from a
 5 5 retailer in violation of section 126.23A.
 5 6 2. A person shall not purchase more than seven thousand
 5 7 five hundred milligrams of pseudoephedrine, either separately
 5 8 or collectively, within a thirty-day period from a pharmacy or
 5 9 from a retailer in violation of section 126.23A.
 5 10 3. A person who violates this section commits a serious
 5 11 misdemeanor.
 5 12 Sec. 6. Section 126.23A, subsection 1, paragraph a,
 5 13 subparagraph (1), Code 2007, is amended by striking the
 5 14 subparagraph and inserting in lieu thereof the following:
 5 15 (1) Sell more than seven thousand five hundred milligrams
 5 16 of pseudoephedrine to the same person within a thirty-day
 5 17 period.
 5 18 Sec. 7. Section 126.23A, subsection 1, paragraph b, Code
 5 19 2007, is amended to read as follows:
 5 20 b. A retailer or an employee of a retailer shall do the
 5 21 following:
 5 22 (1) Provide for the sale of a pseudoephedrine product in a
 5 23 locked cabinet or behind a sales counter where the public is
 5 24 unable to reach the product and where the public is not
 5 25 permitted.
 5 26 (2) Require a purchaser to present a ~~government-issued~~
 5 27 ~~photo driver's license or other state-issued photo~~
 5 28 identification card identifying the purchaser prior to
 5 29 purchasing a pseudoephedrine product.
 5 30 (3) Require the purchaser to sign a logbook and to also
 5 31 require the purchaser to legibly print the purchaser's name
 5 32 and address in the logbook.
 5 33 (4) Print the name of the pseudoephedrine product
 5 34 purchased and quantity sold next to the name of each purchaser
 5 35 in the logbook.
 6 1 ~~(4)~~ (5) Determine the signature in the logbook
 6 2 corresponds with the name on the ~~government-issued photo~~
 6 3 ~~driver's license or other state-issued photo~~ identification
 6 4 card.
 6 5 ~~(5)~~ (6) Keep the logbook ~~twelve~~ twenty-four months from
 6 6 the date of the last entry.
 6 7 ~~(6)~~ (7) Provide notification in a clear and conspicuous
 6 8 manner in a location where a pseudoephedrine product is
 6 9 offered for sale stating the following:
 6 10 Iowa law prohibits the over-the-counter purchase of more
 6 11 than one package of a product containing pseudoephedrine in a
 6 12 twenty-four-hour period or of more than seven thousand five
 6 13 hundred milligrams of pseudoephedrine within a thirty-day
 6 14 period. If you purchase a product containing pseudoephedrine,
 6 15 you are required to sign a logbook which may be accessible to
 6 16 law enforcement officers.
 6 17 (8) Provide notification affixed to the logbook stating
 6 18 that a purchaser entering a false statement or
 6 19 misrepresentation in the logbook may subject the purchaser to
 6 20 criminal penalties under 18 U.S.C. } 1001.
 6 21 (9) Disclose logbook information as provided by state and
 6 22 federal law.
 6 23 (10) Comply with training requirements pursuant to federal
 6 24 law.
 6 25 Sec. 8. CONTINGENT APPLICABILITY == PHARMACY BOARD AND
 6 26 CODE EDITOR RESPONSIBILITIES.
 6 27 1. The board of pharmacy examiners shall notify the Code
 6 28 editor when the establishment of the repository on a statewide
 6 29 basis is complete.
 6 30 2. When the establishment of the central repository on a
 6 31 statewide basis is complete, the Code editor is directed to
 6 32 remove section 124.212A, subsection 2, section 124.212B,
 6 33 subsection 9, and section 124.212C, from the Code and to
 6 34 internally renumber the sections as necessary.
 6 35 EXPLANATION
 7 1 This bill relates to the sale of a pseudoephedrine product
 7 2 by a pharmacy or retailer.
 7 3 PENALTIES. The bill provides that a person shall not
 7 4 purchase more than 3,600 milligrams of pseudoephedrine, either
 7 5 collectively or separately, within a 24-hour period from a

7 6 pharmacy unless the person has a prescription. A person who
7 7 violates this provision of the bill commits a serious
7 8 misdemeanor. Under current law and the bill, a person commits
7 9 a serious misdemeanor if the person purchases more than 7,500
7 10 milligrams of pseudoephedrine within a 30-day period from a
7 11 pharmacy or retailer.

7 12 PHARMACY. The bill requires a purchaser of a
7 13 pseudoephedrine product from a pharmacy to present a driver's
7 14 license or other state-issued photo identification card prior
7 15 to purchase, and sign an electronic logbook. Current law does
7 16 not require an electronic logbook and requires a purchaser to
7 17 present a government-issued photo identification card prior to
7 18 purchase. The bill also provides that if the electronic
7 19 logbook is unavailable, the pharmacy is required to keep an
7 20 alternative record that complies with rules adopted by the
7 21 state board of pharmacy.

7 22 The bill requires a pharmacy, an employee of a pharmacy, or
7 23 a licensed pharmacist, to enter a purchaser's name, address,
7 24 date of purchase, time of purchase, name of pseudoephedrine
7 25 product, and quantity sold into an electronic logbook. If the
7 26 electronic logbook is unavailable for use, the bill requires
7 27 the pharmacy to keep written records of the transaction
7 28 including a signature.

7 29 The bill requires a pharmacy to keep electronic logbook
7 30 records for a period of 24 months from the date of the last
7 31 entry. Current law requires the pharmacy to keep the logbook
7 32 12 months from the date of the last entry.

7 33 The bill provides that the state board of pharmacy shall
7 34 implement a statewide real-time central repository to track
7 35 pseudoephedrine product sales at pharmacies. The bill
8 1 requires a pharmacy dispensing pseudoephedrine products to
8 2 report all such sales electronically to the central repository
8 3 under the control of the state board of pharmacy. If the
8 4 pharmacy has written records, the records are also to be
8 5 reported for entry into the repository. If the electronic
8 6 logbook is unavailable for use, the bill requires the pharmacy
8 7 to keep written records of the transaction including a
8 8 signature.

8 9 The bill makes confidential the information collected in
8 10 the central repository unless otherwise ordered by a court, or
8 11 the records are released by the custodian of the records
8 12 pursuant to new Code section 124.212B.

8 13 The bill provides that a pharmacy, an employee of a
8 14 pharmacy, or a licensed pharmacist shall not be liable to any
8 15 person for any claim which may arise when reporting
8 16 pseudoephedrine sales to the central repository.

8 17 The bill also requires a pharmacy to comply with training
8 18 requirements pursuant to federal law.

8 19 A person who discloses information stored in the central
8 20 repository in violation of the bill commits a simple
8 21 misdemeanor.

8 22 RETAILER. The bill requires a purchaser of a
8 23 pseudoephedrine product from a retailer to present a driver's
8 24 license or other state-issued photo identification card prior
8 25 to purchase. Current law requires a purchaser to present a
8 26 government-issued photo identification card prior to purchase.

8 27 The bill requires a retailer or an employee of a retailer
8 28 to print the name of the pseudoephedrine product purchased and
8 29 the quantity sold next to the name of each purchaser in the
8 30 logbook.

8 31 The bill requires the retailer to keep the logbook 24
8 32 months from the date of the last entry. Current law requires
8 33 the retailer to keep the logbook 12 months from the date of
8 34 the last entry. The bill does not require a retailer to keep
8 35 an electronic logbook of pseudoephedrine purchases.

9 1 The bill also requires a retailer to comply with training
9 2 requirements pursuant to federal law.

9 3 ADVISORY COMMITTEE. The bill requires the board of
9 4 pharmacy to establish a pseudoephedrine advisory committee to
9 5 provide input and advise the board regarding the
9 6 implementation of the statewide real-time central repository.
9 7 The advisory committee shall consist of four licensed
9 8 pharmacists including a pharmacist from an independent
9 9 pharmacy, a regional chain pharmacy, and a national chain
9 10 pharmacy. Code section 124.212C establishing the advisory
9 11 committee is repealed when the establishment of the statewide
9 12 real-time repository is complete.

9 13 CONTINGENT APPLICABILITY. New Code sections 124.212A and
9 14 124.212B created in the bill do not become applicable until
9 15 sufficient funding is received and the central repository
9 16 under the control of the state board of pharmacy examiners is

9 17 established on a statewide basis. However, Code section
9 18 124.212A, subsection 1, paragraph "h", in the bill, which
9 19 requires a pharmacy to keep logbook records 24 months from the
9 20 date of the last entry, is applicable upon the effective date
9 21 of the bill.
9 22 LSB 5464XD 82
9 23 jm/rj/14.1